

07-23-02



July 22, 2002

ICEMILLERSM
LEGAL & BUSINESS ADVISORS

DAC

#3

WRITER'S DIRECT NUMBER: (317) 236-5804
internet:fowler@icemiller.com

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BOX DAC

Commissioner for Patents
Washington, D.C. 20231

RECEIVED

JUL 24 2002

OFFICE OF PETITIONS

Express Mail Label No.: EV 085783155 US

Re: Patent Application
Title: CUSTOMER RELATIONSHIP MEASUREMENT AND
MANAGEMENT SYSTEM AND METHOD
Inventors: SHOEMAKER et al.
Assignee: Walker Information, Inc.
Serial No.: 09/896,960
Filing Date: June 29, 2001
Our File No.: P00494-US-1 (11049.0013)

**PETITION UNDER 37 C.F.R. § 1.78(a)(6) TO ACCEPT AN
UNINTENTIONALLY DELAYED BENEFIT CLAIM**

This petition is made pursuant to 37 C.F.R. § 1.78(a)(6) requests the Commissioner of Patents to accept an unintentionally delayed claim to the benefit of an earlier filed provisional patent application under 35 U.S.C. § 119(e).

I. Facts

On June 30, 2000, Petitioner filed a provisional patent application for a CUSTOMER RELATIONSHIP MEASUREMENT AND MANAGEMENT SYSTEM AND METHOD. This application was assigned serial no. 60/215,309 (the "Provisional Application").

Thereafter, on June 29, 2001, Petitioner filed the above-identified non-provisional utility patent application for a CUSTOMER RELATIONSHIP MEASUREMENT AND MANAGEMENT SYSTEM AND METHOD. This application was assigned serial no. 09/896,960 (the "Non-Provisional Application"). This Non-Provisional Application included substantially the same disclosure as the earlier filed Provisional Application. Petitioner filed this Non-Provisional Application within one year of the filing date of the earlier filed Provisional

Application, intending to claim the benefit of the earlier filed Provisional Application under 35 U.S.C. § 119(e). However, Petitioner inadvertently failed to claim the benefit of the earlier filed Provisional Application in the Non-Provisional Application filed on June 29, 2001.

Petitioner maintains a docket system for all patent applications filed by Petitioner. This docket system indicated that the June 30, 2000, Non-Provisional Application should have been published on December 30, 2001, eighteen months after the filing date of the Provisional Application. At first, Petitioner believed that the publication delay was due to a back-up in the U.S. Patent and Trademark Office (USPTO). However, after waiting for several months to receive the Notice of Publication, Petitioners submitted a status inquiry to the USPTO on May 31, 2002, requesting information about publication of the Non-Provisional Application. A copy of the status inquiry is enclosed. On June 27, 2002, the USPTO responded to Petitioner's status inquiry by stating that it would be more than 15 months before the Non-Provisional Application would be examined. Although this response did not indicate that the Petitioner had failed to properly claim the benefit of the earlier filed Provisional Application, it was at this time that Petitioner first realized that no claim to the benefit of the earlier filed Provisional Application had been made. Accordingly, Petitioner is filing this petition to request acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(e).

II. Requirements for Acceptance of Petition

According to 37 C.F.R. 1.78(a)(6), if the benefit claim required by 35 U.S.C. § 119(e) and 37 C.F.R. 1.78(a)(5) is not submitted within the required time period, a petition for an unintentionally delayed benefit claim may be filed. The petition for an unintentionally delayed benefit claim must,

- (1) be submitted during the pendency of the non-provisional application,
- (2) be accompanied by the surcharge under 37 C.F.R. 1.17(t), and
- (3) include a statement that the entire delay between the date the claim was due under 37 C.F.R. 1.78(a)(5) and the date the claim was filed was unintentional.

Petitioner respectfully requests acceptance of its request to accept an unintentionally delayed benefit claim, as all of the above requirements are satisfied in this petition. First, this petition is being filed during the pendency of the Non-Provisional Application. Second, enclosed is a check in the amount of \$1,280.00 in payment of the surcharge for acceptance of an unintentionally delayed claim for priority under 37 C.F.R. 1.17(t). Third, as set forth in the declaration of Russell E. Fowler, II, enclosed herein as Exhibit A, Petitioner hereby states that the entire delay between the date the benefit claim was due and the date the benefit claim was filed was unintentional.

July 22, 2002

#4

III. Amendment to Specification

Because Petitioner has satisfied the requirements for acceptance of an unintentionally delayed benefit claim under 35 U.S.C.119(e), Petitioner respectfully requests acceptance of the amendment set forth below.

Accordingly, please amend the first page of the specification of U.S. patent application serial no. 09/896,960 by adding the following benefit claim after the title of the invention and before the heading "Background":

CROSS REFERENCE TO RELATED APPLICATIONS

This application claims the benefit of U.S. Provisional Application No. 60/215,309, filed June 30, 2000.

IV. Conclusion

As discussed above, Petitioner has satisfied the requirements for acceptance of an unintentionally delayed benefit claim under 35 U.S.C.119(e). Accordingly, Petitioner respectfully requests acceptance of this petition and the amendment to the specification as set forth above, claiming the benefit of earlier filed U.S. provisional application no. 60/215,309.

Respectfully submitted,



Russell E. Fowler, II

Attorney Registration No. 43,615
ICE MILLER
One American Square, Box 82001
Indianapolis, Indiana 46282-0002
Telephone: (317) 236-2100

Date: 7-22-02

REF/pgf

Enclosures: Copy of May 31, 2002 Status Inquiry
Exhibit A
Check in the amount of \$1,280.00
Return Postcard



EXHIBIT A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re: Title: CUSTOMER RELATIONSHIP MEASUREMENT
AND MANAGEMENT SYSTEM AND METHOD
Inventors: SHOEMAKER et al.
Assignee: Walker Information, Inc.
Serial No.: 09/896,960
Filed: June 29, 2001
Our File No.: P00494-US-1 (11049.0013)

RECEIVED

JUL 24 2002

OFFICE OF PETITIONS

DECLARATION OF RUSSELL E. FOWLER, II

I, Russell E. Fowler, II, under the penalty of perjury, declare as follows:

1. My name is Russell E. Fowler, II. I am an adult and under no legal disability. I have personal knowledge of the matters stated herein.
2. I have been employed by the law firm of Ice Miller since September, 1996. I currently serve as an associate attorney in the Intellectual Property Group of Ice Miller. I have served in that capacity since September, 1996.
3. On June 30, 2000, I filed provisional patent application serial no. 60/215,309 (the "Provisional Application") with the United States Patent and Trademark Office. On June 29, 2001, I filed patent application serial number 09/896,960 (the "Non-Provisional Application") with the United States Patent and Trademark Office, intending to claim the benefit of earlier filed Provisional Application. However, I mistakenly failed to include the benefit claim when the Non-Provisional Application was filed.
4. On July 15, 2002, after reviewing a Response to Status Inquiry from the United States Patent and Trademark Office, I realized for the first time that I had failed to claim the benefit of the Provisional Application when I filed the Non-Provisional Application.

Accordingly, the entire delay between the time the date the benefit claim was due under 37 C.F.R. § 1.78(a)(5) and today was unintentional.

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true.

7-22-02
Date

Russell E. Fowler II
Russell E. Fowler, II

INDY 1022095v1